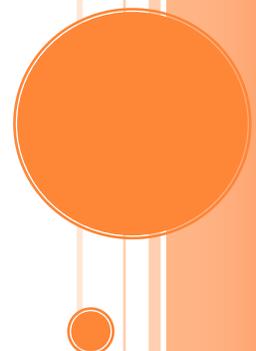


# A POSITIVE STEP FORWARD

NGOs Feedback to the White Paper  
*Renting as a Housing Alternative*

November 2018



TWENTY NGOs ARE ENDORSING THIS FEEDBACK TO THE WHITE PAPER:

Moviment Graffiti

Alleanza Kontra il-Faqar

Malta Tenant Support

Women's Rights Foundation

Forum Komunita' Bormliza

Malta Humanists Association

The Millennium Chapel

Żminijietna – Voice of the Left

aditus Foundation

Platform of Human Rights Organisations in Malta (PHROM)

Malta Gay Rights Movement

The Critical Institute

Spark 15

Mid-Dlam għad-Dawl

Kummissjoni Ġustizzja u Paċi

SOS Malta

African Media Association Malta

Koperattiva Kummerè Ġust

Integra Foundation

Third World Group Malta

## **Introduction**

The coalition of NGOs that, in February this year, presented their [Proposal for Rent Regulation in Malta](#), welcome the White Paper published in October on regulating the private rental sector. We positively note that a number of our proposals have been taken on board.

Most importantly, through a sound analysis of the rental market in Malta and overseas, it dispels a number of myths, such as the assertion that rent regulation is illegal or that it will disincentivize property owners from renting their property<sup>1</sup>. In fact, rent regulation exists in almost all EU Member States. The White Paper recognizes that, currently, the unregulated private rental sector is simply not working and is leading to widespread insecurities and hardships that are destined to worsen if Government does not intervene through a regulatory framework<sup>2</sup>. Regulation is needed in order to bring about contracts of longer duration and to establish rights and obligations of tenants and landlords, leading to more stability and peace of mind for both.

It is to be underlined that any future legislation and regulations based on the published White Paper, whilst certainly constituting a positive step forward, will not solve all the problems associated with the private rental market in Malta. For example, since the White Paper focuses on the issue of stability through the provision of longer contracts, it only marginally addresses the concern relating to exorbitant rent prices.

The NGOs are presenting the following input on the White Paper. This is based on our proposals presented in February and on the possible way forward as outlined in the White Paper itself.

## **Contract length**

The White Paper recognizes that the current practice of providing very short-term contracts (usually 6 to 12 months) leads to people having to live precariously. It also outlines two possible frameworks in order to have longer-term contracts for residential leases: either a minimum contract term, or tax

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<sup>1</sup> Renting As a Housing Alternative: White Paper, October 2018. pg. 24

<sup>2</sup> Ibid. pg. 27

incentives<sup>3</sup>. We suggest a framework that combines these two options: a minimum contract period of three years, and tax incentives connected to contract-length then onwards. For example, a landlord providing a lease of seven years would pay less tax on rental income than a landlord providing a lease of four years. In the case of short-term tenants, such as students, temporary workers and locals carrying out work on their main residence<sup>4</sup>, contracts would be exempt from the three-year minimum term, on provision of valid evidence that would not be too burdensome or unreasonable to provide.

### **Exceptions**

We are in agreement with the White Paper's proposal regarding notice periods for landlords who do not want to renew the lease agreement, and for tenants who want to withdraw from the contract<sup>5</sup>. The White Paper also outlines a number of exceptions allowing landlords to terminate lease agreements before their expiry, including the need to reside in the property, the intention to sell the property or the carrying out of structural works<sup>6</sup>. We believe that such exceptions should only apply after the lapse of three years in any particular contract. Since three years is a relatively short period of time, the landlord can easily plan ahead to ensure that s/he will not be needing the property in the first three years of tenancy. Moreover, a compensation mechanism should exist benefitting tenants in those cases where they have to leave the property before contract expiry due to such exceptions. As a general principle, one should limit this list of possible exceptions since these can become loopholes to avoid regulation and add to the administrative burden on authorities tasked with ascertaining their validity.

### **Rent increases during contract duration**

The White Paper proposes predictable annual rent increases during contract duration. It states that the maximum increase allowed could be pegged to the

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<sup>3</sup> Ibid. pg. 30

<sup>4</sup> Ibid. pg. 29

<sup>5</sup> Ibid. pgs. 32, 33

<sup>6</sup> Ibid. pg. 34

Property Price Index (PPI) and, possibly, also capped<sup>7</sup>. We agree that landlords should have the possibility to annually increase the rent via a mechanism established in the contract. However, we believe that the maximum increase allowed should be pegged to the cost-of-living increase<sup>8</sup>, and not the PPI, through a clear and accessible formula to be published by the authorities on a regular basis.

### **Rent price stabilisation**

Under the White Paper's proposed framework, the landlord would not be bound to prolong the contractual relationship beyond the stipulated period as long as s/he gives the tenant notice of his/her intention not to renew the lease<sup>9</sup>. We agree with this proposal. However, in order to start having a degree of rent-price stabilisation, we propose that the monthly rent to be paid in any new contract, irrespective of whether it is with the same or a different tenant, should not be higher than 10% of the last monthly rent paid under the previous contract<sup>10</sup>. This is aimed at preventing exorbitant increases in rent-prices following the expiry of contracts.

In addition to the measures included in the White Paper, we also propose the creation of a Rent Value Index that would enhance public knowledge on the private rental market and lead to a degree of rent-price stabilisation<sup>11</sup>. The Rent Value Index would list rent-value in different areas and for different classes of property according to their size and quality. There would be a rule stating that an initial price should not exceed 10% of the price listed for that particular category within the Rent Value Index. This would still give landowners ample leeway in setting prices, since the Rent Value Index would in itself reflect market prices, and the price can even be 10% higher. Such a rule would simply reduce the risk of having landlords setting unrealistically high prices.

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<sup>7</sup> Ibid. pg. 33

<sup>8</sup> A Proposal for Rent Regulation in Malta, February 2018. pg. 6

<sup>9</sup> Renting As a Housing Alternative: White Paper, October 2018. pg. 30

<sup>10</sup> A Proposal for Rent Regulation in Malta, February 2018. pg. 6

<sup>11</sup> Ibid. pgs. 7, 8

## **Protecting tenants who report contract irregularities**

Point 5.3.1 of the White Paper refers to protective measures for tenants in those cases where contracts are not registered<sup>12</sup>. We believe that there should be strong dissuasive measures and sanctions deterring landlords from renting without a valid contract. Tenants who report landowners for not providing a contract, or for contract irregularities, should be protected from eviction. In such cases a tenant should be guaranteed, at least, a three-year lease at a favourable rate set by a public authority<sup>13</sup>. It is very unlikely that tenants will report abuse if effective protection is not provided. This would render the whole regulatory framework useless since landlords would find it very easy to lease their property without registering the contract, or without a contract at all.

## **Tenants Union**

The legal framework on rent regulation should provide a legal standing to a tenants' union<sup>14</sup>.

## **Information Campaign**

The introduction of rent regulation should be immediately followed by a nationwide information campaign on the rights and obligations of tenants and landlords.

## **Tenants with existing lease agreements**

Tenants with existing lease agreements, whether formal or informal, should be protected. They run the risk of being forced to leave the property following enactment of such a regulatory framework since landlords might ask for an exorbitant increase in the rent-price, or terminate an existing lease agreement. Thus, following the enactment of legislation establishing a regulatory framework, landlords should be obliged to let existing tenants continue living

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<sup>12</sup> Renting As a Housing Alternative: White Paper, October 2018. pgs. 37, 38

<sup>13</sup> A Proposal for Rent Regulation in Malta, February 2018. pg. 5

<sup>14</sup> Ibid. pg. 10

and paying rent for a reasonable period of time, proportional to the time they have been living in the unit of not less than one third of said period. Moreover, any rent-price increase in such cases should not exceed 10% of the price paid before enactment of this legislation. In cases where the landlord refuses to continue with the lease agreement, or asks for a price that is in excess of 10% of what was being paid, tenants should be able to bring any material to prove their tenancy, including signed (but not necessarily registered) documents showing payment of monthly rent. This would legally oblige the landlord to extend the lease agreement for a period of time, and limit any price increase to 10%.

### **Diversifying the housing supply**

Although the White Paper focuses on a framework regulating private rent contracts, it also contains a number of interesting proposals with regards to the supply of units for rent. We agree with the White Paper's notion that the housing supply should not depend entirely on the private sector<sup>15</sup>. Government and the third sector have an important role in supplying affordable housing. Besides social housing, the state and non-profit setups should build units to be leased at affordable prices whilst still generating rental revenue. This would increase the housing stock, increase state income and increase affordability. We see no benefits from a Public-Private Partnership (PPP) setup for such projects.

### **Positive proposals**

We are in perfect agreement with the White Paper's proposals concerning the establishment of a public agency responsible for private residential leases<sup>16</sup>, subsidies<sup>17</sup>, declaration of deposited money<sup>18</sup>, provision of a standard contract template<sup>19</sup> and tenants' access to water and electricity bills and services<sup>20</sup>.

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<sup>15</sup> Ibid. pg. 41

<sup>16</sup> Renting As a Housing Alternative: White Paper, October 2018. pg. 37

<sup>17</sup> Ibid. pg. 38

<sup>18</sup> Ibid. pg. 37

<sup>19</sup> Ibid. pg. 38

<sup>20</sup> Ibid. pg. 39

## **Conclusion**

We look forward to continuing our participation in the discussion on rent regulation in Malta and to the enactment of a rent regulation framework that ensures social justice and offers peace of mind for everyone.